



Arizona Peace Officer Standards and Training Board

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MINUTES OF THE MARCH 20, 2019 MEETING OF THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD PHOENIX, ARIZONA

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on March 20, 2019, at the Arizona Peace Officer Standards and Training Board, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

Sheriff Scott Mascher, Yavapai County Sheriff's Office, Chairman
Assistant Attorney General Paul Ahler, representing Attorney General Mark Brnovich
Sheriff Mark Dannels, Cochise County Sheriff's Office
Ms. Jamie Kelly, Public Member
Chief Tom Kelly, Apache Junction Police Department
Mr. Andrew LeFevre, Grand Canyon University (via telephone and only for Final Action Case 14-145)
Officer Matthew Medina, Prescott Police Department (via telephone)
Deputy Christopher Pittmann, Maricopa County Sheriff's Office
Director Charles Ryan, AZ Department of Corrections

Members Absent:

Chief Alan Rodbell, Scottsdale Police Department
Colonel Frank Milstead, AZ Department of Public Safety

Staff in Attendance:

Matt Giordano, Executive Director
Ben Henry, Deputy Director
Billy Caldwell, Compliance Specialist
Mike Deltenre, Compliance Specialist
Marie Dryer, Program Administrator
Steve Jacobs, Compliance Specialist
Cathy Hawse, Compliance Specialist
Arlene Heckel, Compliance Specialist
Mike Orose, Compliance Specialist
Mark Perkovich, Program Administrator
Lynn Pirkle, Administrative Services Officer
Cindy Sawyer, Training Compliance Specialist
Sandy Sierra, Administrative Services Officer
Lori Wait, Compliance Specialist

Assistant Attorneys General:

Seth Hargraves

Mark Brachtl

Anne Froedge

A. Call to Order

Chairman Mascher called the meeting to order at 10:00 a.m. and asked Mr. Ahler (AAG) to lead everyone in reciting the Pledge of Allegiance.

B. Introductions, Presentations and Announcements

Matt Giordano, Executive Director

- Assistant Attorney General Annie Froedge will provide legal advice to the Board on six final action cases - 14-055 Dustin R. Dionne, 14-145 Joshua W. Adams, 16-106 Joseph W. McGough, 16-156 Richard G. Pina, 18-130 Chris F. Tiona and 17-130 Gabriel G. Terry.
- Chief Tom Kelly of the Apache Junction Police Department was appointed to the Board on February 27, 2019. Today is his first meeting.
- For the record, two Board members are not present; Chief Alan Rodbell and Colonel Frank Milstead. There are currently two Board member vacancies (public member and jail administrator).
- Two new cases will be removed from the agenda for further review; Case 17-173 Jay C. McNeil and 18-071 Emily J. Clark-Gribble.
- Deputy Director Ben Henry is onboard and in his third week as the new Deputy Director.

C. Executive Director's Report

Matt Giordano, Executive Director

- Budget wise the CJEF is down \$160,000 for the fiscal year; expenses are down though due to vacancy savings. Will present next fiscal year's budget to the Board at the June meeting.
- The Navajo Nation DPS graduated a second academy class two weeks ago. We are waiting on an invitation to inspect their academy
- Waiting on the appointment of the two vacant Board positions; the public member and jail administrator positions.

D. Summary of Current Events

Matt Giordano, Executive Director

- Hosted a meeting with six polygraph examiners and AZPOST staff to discuss new hire audits and polygraph exams as they relate to our rules.
- The Anti-Defamation League provided training at AZPOST on Hate Crimes and Implicit Bias Training.
- Attended a meeting of the Northeast AZ Training Center in Snowflake and toured the academy.
- Physicians training will be held on March 23, 2019, at AZPOST; 24 physicians are scheduled to attend this training.
- Met with the AZ Commission for the Deaf and Hard of Hearing to discuss future training.

E. Legislative Update

Matt Giordano, Executive Director

- HB 2189 continues through the House. This bill adds a federally recognized Native American tribe to the two chiefs of police memberships on the Board.
- SB 1092 – This bill changes the minimum age for Department of Corrections correctional officers to 18; instead of 21.

F. Consent Agenda

Sheriff Dannels made a motion to accept the Consent Agenda. The motion was seconded by Deputy Pittmann and passed unanimously. Ms. Kelly recused herself from voting on the Consent Agreement for Voluntary Relinquishment for Torii J. Rowe 18-112.

The following meeting minutes were approved as written:

1. Minutes of the Board meeting held on January 26, 2019; and
Minutes of the Board meeting held on February 20, 2019.
2. Ministerial Actions:

a. Certification Waivers:

Blake A. Reed	Apache Junction Police Department
Mark O. Gower	Colorado City Marshals Office
Addison E. Horst	Phoenix Police Department
Joseph S. Spezzano	Cochise County Sheriff's Office
Robbins A. Radley	Colorado City Marshal's Office
Daniel J. Trakes	AZ State University Police Dept.
Richard A. Hopkins	Maricopa Community College Dist.
Jason C. Fitzpatrick	Peoria Police Department
Marlyn J. Tinsley	Peoria Police Department
Nicholas E.S. Spiess	Yavapai County Sheriff's Office
Andrew J. Valenzuela	University of AZ Police Department

3. Consent Agreements for Voluntary Relinquishment of Peace Officer Certification. The following individuals, without admitting to any misconduct, requests the Board accept their request to permanently relinquish their Arizona peace officer certification:

Kenneth R. Meeks	17-013	Tucson Police Department
Torii J. Rowe	18-112	Glendale Police Department

G. Report – Department of Corrections

Director Charles Ryan

Since last month’s meeting, 43 cadets have graduated from COTA. Currently there are four classes with 86 cadets in attendance. There are currently 1,150 vacancies statewide. Thirteen cadets have graduated through county IGAs. The canine academy at COTA began a new class on March 4, 2019.

H. Review, Discussion and Possible Action on a Phoenix Police Department Petition of the Drug Experimentation Rule/Waiver of Seven Year Restriction on Behalf of Applicant Brett Hendriks

Assistant Attorney General Seth Hargraves addressed the Board regarding the Phoenix Police Department petition of the drug experimentation rule, or in the alternative, request for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14) for Applicant Brett Hendriks. Assistant Chief Louie Tovar, Phoenix Police Department, addressed the Board to request that the petition be granted.

Deputy Pittmann made a motion to determine that Mr. Hendrik's consumption of the edible marijuana based brownie/cookie constitutes the use of cannabis, and to grant the request for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14). Based upon the information submitted by the Phoenix Police Department, I believe that the best interests of the law enforcement profession would be served and the public welfare and safety would not be jeopardized by the waiver. The motion was seconded by Director Ryan and passed unanimously.

I. Review, Discussion and Possible Action on a Phoenix Police Department Petition of the Drug Experimentation Rule/Waiver of Seven Year Restriction on Behalf of Applicant Paul J. Hooker

Assistant Attorney General Seth Hargraves addressed the Board regarding the Phoenix Police Department petition of the drug experimentation rule, or in the alternative, request for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14) for Applicant Paul J. Hooker. Assistant Chief Louie Tovar, Phoenix Police Department, addressed the Board to request that the petition be granted.

Mr. Ahler (AAG) made a motion to determine that Mr. Hooker's consumption of the edible marijuana brownie constitutes the use of cannabis, and to grant the request for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14). Based upon the information submitted by the Phoenix Police Department, I believe that the best interests of the law enforcement profession would be served and the public welfare and safety would not be jeopardized by the waiver. The motion was seconded by Deputy Pittmann and passed unanimously.

J. Review, Discussion and Possible Action on a Sahuarita Police Department Petition of the Drug Experimentation Rule/Waiver of Seven Year Restriction on Behalf of Applicant Christina D. Carr-Cody

Assistant Attorney General Seth Hargraves addressed the Board regarding the Sahuarita Police Department petition to determine that the drug usage by Applicant Christina Carr-Cody was experimental. Sergeant Mike Falquez, Sahuarita Police Department, addressed the Board to request that the petition be granted.

Mr. Ahler (AAG) made a motion to grant the petition for a determination that the drug usage by Christina D. Carr-Cody was experimental. The motion was seconded by Director Ryan and passed unanimously.

K. Final Action Cases:

1. 14-055 – Dustin R. Dionne – Phoenix Police Department
Mr. Ahler (AAG) recused himself from this case.

The Board received independent legal advice from Assistant Attorney General Anne Froedge.

Sheriff Dannels made a motion to go into executive session to receive legal advice regarding this matter. The motion was seconded by Director Ryan and passed unanimously. The Board went into executive session at 10:33 a.m.

The Board reconvened in open session at 11:05 a.m.

The Board heard oral argument on the Remand from the Maricopa County Superior Court from Assistant Attorney General Seth Hargraves, attorney for the Arizona Peace Officer Standards and Training Board, and Mr. Eric Wilson, attorney representing Mr. Dionne.

Chairman Mascher polled all Board members in order to determine if they read the Remand from the Maricopa County Superior Court and the packet of mitigating evidence submitted by Mr. Dionne's attorney. All seven Board members acknowledged receiving and reading the material.

Sheriff Dannels made a motion to revoke Mr. Dionne's peace officer certification based on the Findings of Fact and Conclusions of Law. The motion was seconded by Director Ryan and passed unanimously.

2. #14-145 – Joshua W. Adams – Phoenix Police Department
Mr. Ahler (AAG) and Deputy Pittmann recused themselves from this case. This caused a lack of a quorum. Mr. LeFevre, who previously received and read today's meeting material, was available by phone to rule on this case in order to establish a quorum.

The Board heard oral argument on the Administrative Law Judge (ALJ) decision from Assistant Attorney General Seth Hargraves, and Mr. Eric Wilson, attorney representing Mr. Adams. Sheriff Dannels made a motion to accept the ALJ's Findings of Fact and Conclusions of Law and close this case with No Action. The motion was seconded by Director Ryan and passed unanimously.

3. #16-106 – Joseph W. McGough – Peoria Police Department
Mr. Ahler recused himself from this case. The Board heard oral argument on the Administrative Law Judge (ALJ) decision from Assistant Attorney General Mark Brachtel, and Ms. Kathryn Baillie, attorney representing Mr. McGough. Sheriff Dannels made a motion to accept the ALJ's Findings of Fact and Conclusions of Law and close this case with No Action. The motion was seconded by Deputy Pittmann and passed unanimously.

4. #16-156 – Richard G. Pina – Phoenix Police Department
The Board heard oral argument on the Motion for Reconsideration from Assistant Attorney General Seth Hargraves, and Mr. Eric Wilson, attorney representing Mr. Pina. Director Ryan made a motion to close this case. Upon further discussion, he amended the motion to accept the

Motion for Reconsideration and close this case. After further discussion Director Ryan withdrew his motions.

Sheriff Dannels made a motion to rescind the Board's prior action of voting to initiate proceedings. The motion was seconded by Deputy Pittmann and passed unanimously.

Sheriff Dannels then made a motion to accept Respondent's Motion for Reconsideration and close this case with No Action. The motion was seconded by Chief Kelly and passed unanimously.

5. #18-130 – Chris F. Tiona – Phoenix Police Department

The Board considered comments from Assistant Attorney General Seth Hargraves, who provided a brief overview of the case and the terms of the proposed consent agreement. Ms. Kathryn Baillie, attorney representing Mr. Tiona, was available for questions. Mr. Ahler (AAG) made a motion to accept the Consent Agreement, Decision and Order for a 12-month suspension of Mr. Tiona's peace officer certification. The suspension shall be in effect from September 5, 2018 through September 4, 2019. The motion was seconded by Deputy Pittmann and passed unanimously.

6. #17-130 – Gabriel G. Terry – Ak-Chin Police Department

The Board considered comments from Assistant Attorney Mark Brachtl, who provided a brief overview of the case and the terms of the proposed consent agreement, from Ms. Donna McDaniel, attorney representing Mr. Terry and from Chief Gregory Roberts of the Central Arizona College Police Department. Chief Kelly made a motion to accept the Consent Agreement, Decision and Order and close this case with No Action with Agency Discretion. The motion was seconded by Director Ryan. Upon further discussion, Chief Kelly withdrew his motion. Sheriff Dannels made a motion to reject the Consent Agreement, Decision and Order and close this case with No Action with Agency Discretion. The motion was seconded by Deputy Pittmann and passed unanimously.

7. #18-137 – John M. Gomez – La Paz County Sheriff's Office

The Board considered comments from Deputy Director Ben Henry, who provided a brief overview of the case. Mr. Ahler (AAG) made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Gomez's peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.

8. #18-116 – Daniel F. Irvin – Phoenix Police Department

The Board considered comments from Deputy Director Ben Henry, who provided a brief overview of the case. Mr. Ahler (AAG) made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Irvin's peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.

L. New Charging Cases:

1. #17-173 – Jay C. McNeil – Mesa Police Department

This case was tabled for further review.

2. #18-071 – Emily J. Clark-Gribble – Mesa Police Department
This case was tabled for further review.
3. #18-024 – Eric W. Kask – Mesa Police Department
The Board considered comments from Compliance Specialist Billy Caldwell, who provided a brief overview of the case. Director Ryan made a motion to **Initiate Proceedings** against Mr. Kask's peace officer certification. The motion was seconded by Mr. Ahler (AAG) and passed unanimously.
4. #19-008 – September A. Bostick – Tucson Police Department
The Board considered comments from Compliance Specialist Cathy Hawse, who provided a brief overview of the case. Sheriff Dannels made a motion to **Initiate Proceedings** against Ms. Bostick's peace officer certification. The motion was seconded by Ms. Kelly. Sheriff Dannels then withdrew his motion and made a motion to **Resolve in Future**. The motion was seconded by Ms. Kelly and passed unanimously.
5. #19-011 – Brian A. Aikens – Cocopah Tribal Police Department
The Board considered comments from Compliance Specialist Steve Jacobs, who provided a brief overview of the case. Mr. Ahler (AAG) made a motion to **Initiate Proceedings** against Mr. Aiken's peace officer certification. The motion was seconded by Director Ryan and passed unanimously.
6. #18-144 – Kristi A. Tausinga – AZ Department of Transportation - ECD
The Board considered comments from Compliance Specialist Mike Orose, who provided a brief overview of the case. Mr. Ahler (AAG) made a motion to **Initiate Proceedings** against Ms. Tausinga's peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.
7. #19-014 – Michael J. Gallego – AZ Department of Public Safety
The Board considered comments from Compliance Specialist Lori Wait, who provided a brief overview of the case. Chief Kelly made a motion to **Initiate Proceedings** to deny peace officer certification to Mr. Gallego. The motion was seconded by Sheriff Dannels and passed unanimously.

M. Call to the Public

No one wished to address the Board.

N. Future Agenda Items

There are no items to add.

O. Adjournment

The meeting was adjourned at 12:32 p.m.